



EXHIBIT A-1

CT Corporation
Service of Process Notification
08/05/2024
CT Log Number 547025160

Service of Process Transmittal Summary

TO: Betsy Gassaway, Director Legal Support
Union Pacific Railroad Company
1400 Douglas St
Omaha, NE 68179-0002

RE: Process Served in Texas

FOR: Union Pacific Railroad Company (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: CHIOMA DURU, MD and CHIZARA NWAKANMA, INDIVIDUALLY AND ON BEHALF OF THEIR UNBORN BABY C.N. II // To: Union Pacific Railroad Company

CASE #: 24DCV318392

NATURE OF ACTION: Personal Injury - Vehicle Collision

PROCESS SERVED ON: C T Corporation System, Dallas, TX

DATE/METHOD OF SERVICE: By Process Server on 08/05/2024 at 13:50

JURISDICTION SERVED: Texas

ACTION ITEMS: CT will retain the current log

Image SOP

Email Notification, Betsy Gassaway bsgassaw@up.com

Email Notification, Betsy Gassaway bsgassaw@up.com

Email Notification, Lena Waterkotte lawaterkotte@up.com

Email Notification, Kelly Gearhart kmgearhart@up.com

Email Notification, Leslie Robinson lnrobins@up.com

REGISTERED AGENT CONTACT: C T Corporation System
1999 Bryan Street
Suite 900
Dallas, TX 75201
866-401-8252
LargeCorporationTeam@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

EXHIBIT A-1

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PROCESS SERVER DELIVERY DETAILS

Date:Mon, Aug 5, 2024

Server Name:Kathleen Miller

Entity Served	UNION PACIFIC RAILROAD COMPANY
Case Number	24-DCV-318392
Jurisdiction	TX

Inserts		



EXHIBIT A-1

**SERVICE FEE NOT COLLECTED
BY DISTRICT CLERK**

EXHIBIT A-1

THE STATE OF TEXAS

CITATION

**TO: UNION PACIFIC RAILROAD COMPANY
C/O CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on Monday next following the expiration of twenty days after you were served this citation and **PLAINTIFFS' ORIGINAL PETITION** filed on **July 19, 2024**, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

The case is presently pending before the **434TH JUDICIAL DISTRICT COURT** of Fort Bend County sitting in Richmond, Texas. It bears cause number **24-DCV-318392** and is styled:

**CHIOMA DURU, MD AND CHIZARA NWAKANMA, INDIVIDUALLY AND ON BEHALF OF THEIR UNBORN
BABY C.N.II V. UNION PACIFIC RAILROAD COMPANY AND THE CITY OF STAFFORD**

The name and address of the attorney for **PLAINTIFF(S)** is:

**MICHAEL KERENSKY
MIKE KERENSKY PLLC
THE LYRIC CENTRE
440 LOUISIANA SUITE 2300
HOUSTON TX 77002
713-228-5100**

The nature of the demands of said **PLAINTIFF(S)** is shown by a true and correct copy of the **PLAINTIFFS' ORIGINAL PETITION** accompanying this citation and made a part hereof.

If this Citation is not served, it shall be returned unserved. Issued under my hand and seal of said Court, at Richmond, Texas, **on this the 27th day of July, 2024.**

**BEVERLEY MCGREW WALKER, DISTRICT CLERK
FORT BEND COUNTY, TEXAS**

Physical Address:

1422 Eugene Heimann Circle, Room 31004
Richmond, Texas 77469

Mailing Address:

301 Jackson Street, Room 101
Richmond, Texas 77469

By: _____

Sylvie Le
Deputy District Clerk SYLVIE LE
Telephone: (281) 341-3754



SERVICE

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24-DCV-318392

434th Judicial District Court

Chioma Duru, MD and Chizara Nwakanma, Individually and on Behalf of Their Unborn Baby C.N.II V. Union Pacific Railroad Company and The City of Stafford

OFFICER'S OR AUTHORIZED PERSON'S RETURN

Came to hand on the _____ day of _____, 20__, at _____ o'clock ____M. Executed at _____, within the County of _____, at _____ o'clock ____M. on the _____ day of _____, 20__, by delivering to the within named _____, in person, a true copy of this citation together with the accompanying copy of the petition, having first attached such copy of such petition to such copy of citation and endorsed on such copy of citation the date of delivery.

Total fee for serving ____ citation at \$80.00 each \$ _____

Name of Officer or Authorized Person

County, Texas

By: _____
Signature of Deputy or Authorized Person

*State day and hour and place of serving each person.

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

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"My name is _____,
(First, Middle, Last)

my date of birth is _____, and my address is _____
(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____
day of _____.

Declarant / Authorized Process Server

(Id # & expiration of certification)

SERVICE

Citation issued to Union Pacific Railroad Company on 7/27/2024.

EXHIBIT A-1

EXHIBIT A-1

Filed
7/19/2024 2:49 PM
Beverley McGrew Walker
District Clerk
Fort Bend County, Texas
Erica Rodriguez

CAUSE NO: 24-DCV-318392

CHIOMA DURU, MD and CHIZARA	§	IN THE DISTRICT COURT
NWAKANMA, INDIVIDUALLY AND ON	§	
BEHALF OF THEIR UNBORN BABY C.N. II	§	
<i>Plaintiff,</i>	§	
	§	OF FORT BEND COUNTY, TEXAS
V.	§	
	§	
UNION PACIFIC RAILROAD COMPANY and	§	Fort Bend County - 434th Judicial District Court
THE CITY OF STAFFORD	§	_____ JUDICIAL DISTRICT
<i>Defendants.</i>		

PLAINTIFFS' ORIGINAL PETITION

COME NOW Chioma Duru, MD and her husband, Chizara Nwakanma, individually and on behalf of their unborn baby C.N. II complaining of Union Pacific Railroad Company and The City of Stafford and in support thereof would show unto the Court the following:

PARTIES

1. **CHIOMA DURU, MD AND HER HUSBAND CHIZARA NWAKANMA, INDIVIDUALLY AND ON BEHALF OF THEIR UNBORN CHILD, C.N. II** are and have been resident citizens of Fort Bend County at all relevant times.

2. **UNION PACIFIC RAILROAD COMPANY** is a foreign corporation, registered to do business in Texas and doing business in Texas for the purpose of accumulating monetary profit. Service can be had upon this Defendant by serving its registered agent for service, **CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201**. The Clerk is respectfully requested to issue a citation for service and return same to Counsel for Plaintiffs via email, who will arrange for service.

3. **THE CITY OF STAFFORD** is a municipality in Fort Bend County, Texas. Service can be had upon the City of Stafford by serving its **Mayor, Mr. Ken Mathew at 2610 S. North Main Street, Stafford, Texas 77477**. The Clerk is respectfully requested to issue a citation for service

ROUTED TO COURT 7/19/2024 ER
RT'D TO D. CLERK

EXHIBIT A-1

upon this Defendant and forward said citation to Counsel for Plaintiffs via email, who will arrange for service.

VENUE

4. Venue is proper in Fort Bend County because all or a substantial part of the events or omissions giving rise to this cause of action occurred in Fort Bend County, Texas. (Tex.Civ.Prac.&Remedies Code §15.002)

RULE 47 DISCLOSURES

5. Plaintiffs allege that the Defendants created a dangerous condition at the railroad crossing where the crash made the basis of this suit occurred. The damages sought are within the jurisdictional limits of this Court. Plaintiffs seek monetary relief over \$1,000,000.00 (ONE MILLION DOLLARS.)

FACTUAL BACKGROUND

6. On or about March 1, 2024, at approximately 12:10 p.m., Dr. Chioma Duru was on her way between clinics where she works. Dr. Duru is a pediatric oncologist. Dr. Duru traveled on Stafford Road in the City of Stafford and approached a railroad crossing. Not far after traffic on Stafford Road crosses the railroad track, there is a traffic light at North Main Street. Once traffic crosses the railroad tracks, there is only room for a few vehicles between the red light at North Main Street and the railroad tracks. As Dr. Duru crossed the railroad tracks, there was no train approaching and the warning signals were not activated. Dr. Duru came to a stop behind an 18-wheel truck that was stopped at the red light on North Main Street.

7. The railroad crossing where this crash occurred is equipped with gates and lights. In addition to flashing lights and lowering gates, the signals are interconnected with the traffic light at the corner of Stafford Road and North Main Street. This interconnection is designed to protect traffic that gets stopped between the railroad tracks at a red light at North Main Street and Stafford Road. If that light remains red as a train approaches, the traffic on Stafford Road between the red

EXHIBIT A-1

light at North Main Street and the railroad tracks is at risk of getting trapped at a point where they do not clear the tracks. The interconnect feature of the railroad warning lights and gates and the traffic light at North Main Street and Stafford Road, if operating as designed and properly programmed, will turn the light controlling traffic on Stafford Street at North Main Street to a green signal at approximately the time the gates lower for an approaching train. The gates lower as a train approaches this crossing long before the train enters the crossing at Stafford Road. If the light at North Main Street turns green as those gates lower, there is plenty of time for traffic stopped between the rails of the track and the traffic light at North Main Street to clear and avoid any risk of collision with the oncoming train. The Union Pacific Railroad Company knew that if the traffic interconnect feature of this warning system did not function properly, it created an unreasonably dangerous condition that would in all probability lead to a catastrophic collision between a vehicle trapped between a red light at North Main Street and the railroad tracks at the Stafford Road Crossing. The City of Stafford knew that if the traffic interconnect feature of this warning system did not function properly, it created an unreasonably dangerous condition that would in all probability lead to a catastrophic collision between a vehicle trapped between a red light at North Main Street and the railroad tracks at the Stafford Road Crossing. The Union Pacific Railroad Company and/or the City of Stafford had a duty to inspect, maintain and repair the railroad crossing lights and gates and the interconnected traffic signal at North Main Street in a way that maintained the operation of that warning system as designed; a train approaches, the lights and gates go down and the light at Stafford Road and North Main Street turns green to allow all traffic between the tracks and the light to clear before the train arrives at the crossing. The Union Pacific Railroad and/or the City of Stafford were negligent regarding the maintenance, inspection and repair of the warning system at the Stafford Road Crossing and that negligence was a proximate cause of the crash made the basis of this action and the devastating consequences suffered by the Plaintiffs.

EXHIBIT A-1

8. Dr. Duru was one of those vehicles that was stopped by the red light on North Main Street between the railroad tracks and stopped traffic. Dr. Duru was stopped behind an 18-wheel truck that gave her little if any room to clear the tracks. Dr. Duru stopped for the red light facing her and the traffic in front of her. Unknown to her, there was a train approaching from her driver's side. She was positioned so that her bumper was over the tracks and the approaching train was coming from a sight line that was behind her. She did not hear a train whistle or the ringing bells of the crossing as she sat there waiting for the light to turn green so she could proceed. She had her window up, air conditioner on and radio playing moderately.

9. The City of Stafford intentionally contributed to the dangerous nature of this railroad crossing. The City of Stafford applied to the Federal Railroad Administration for the creation of a "no whistle zone" for this line of track that runs along North Main Street in The City of Stafford. A requirement for getting a "no whistle zone" approved by the Federal Railroad Administration is that the applicant demonstrate that there are adequate warning systems in place that will protect the motorists even if the railroad engineers do not blow their whistles as they approach the affected crossings. The City of Stafford represented to the Federal Railroad Commission that the warning system at Stafford Road and North Main Street had a warning system that more than compensated for the lack of a train whistle warning to motorists as a train approached the crossing. This representation was only true if the traffic interconnect feature is operating properly. The City of Stafford knew that if the traffic interconnect feature of the warning system at the Stafford Road crossing was not operating properly, and a red-light stopping traffic between the tracks and North Main Street did not turn green to allow that traffic to clear, that created an extremely dangerous condition for motorists attempting to cross the tracks on Stafford Road. The Federal Railroad Administration approved the "no whistle" zone and therefore relieved the engineers approaching the Stafford Road crossing of their obligation to blow the whistle as a warning to motorists like Dr. Duru. Without the proper, as designed, operation of the traffic interconnect, the lack of a

EXHIBIT A-1

whistle increased the risk of a car getting caught between the red light on North Main Street and train tracks. The City of Stafford knew of this risk and failed to take adequate action to make the crossing reasonably safe by allowing the traffic interconnect feature to malfunction.

10. The collision with Dr. Duru's car was violent. Her car spun around several times and came to a stop in the grass ditch alongside the railroad tracks. Dr. Duru was pregnant at the time of this crash. Her unborn child, later named after his father and grandfather, C.N. II, was killed. C.N. II was a viable fetus at the time he was killed in this unnecessary crossing crash. To make matters worse, if that can be imagined, Dr. Duru's injuries resulted in surgery that eliminated her ability to conceive, carry and deliver another child for the rest of her life.

COUNT I: NEGLIGENCE OF UNION PACIFIC RAILROAD

11. The Union Pacific Railroad had a duty to maintain the crossing signals in a condition that allowed them to work as designed. The Union Pacific Railroad was negligent in the discharge of this duty and that negligence was a proximate cause of the injuries and damages of the Plaintiffs.

COUNT II: NEGLIGENCE OF THE CITY OF STAFFORD

12. The City of Stafford had knowledge of the dangerous condition of the railroad crossing at Stafford Road if the traffic interconnect feature of the railroad crossing warning system did not operate as designed. Dr. Duru had no knowledge of the necessity of the traffic interconnect feature of the warning system at the Stafford Street Crossing. The City of Stafford failed to warn the traveling public of the dangerous condition created by the malfunction of the traffic interconnect feature of the railroad crossing at Stafford Road and failed to make that crossing reasonably safe for the motoring public. These failures on the part of the City of Stafford were a proximate cause of the injuries and damages of the Plaintiffs.

COUNT III: DAMAGES

13. Dr. Duru seeks damages both in the past and in the future for all elements of damages allowed in Texas for physical injury including but not limited to:

EXHIBIT A-1

- a. Physical pain and mental anguish in the past;
- b. Physical pain and mental anguish that will, in reasonable probability occur in the future;
- c. Impairment of function in the past;
- d. Impairment of function that will in reasonable probability occur in the future;
- e. Lost earnings in the past;
- f. Reasonable and necessary medical costs in the past;
- g. Reasonable and necessary medical costs that will in reasonable probability be incurred in the future.

14. Chizara Nwakanma, the husband of Dr. Chioma Duru, makes a claim in his individual capacity as follows:

- a. Loss of consortium in the past;
- b. Loss of consortium that will in reasonable probability occur in the future.

15. Dr. Chioma Duru and Chizara Nwakanma hereby seek wrongful death damages for the loss of their unborn viable child C.N. II as follows:

- a. Loss of consortium in the past related to the death of C.N. II;
- b. Loss of consortium that will in reasonable probability occur related to the death of C.N. II;
- c. Loss of society, enjoyment and care and comfort in the past related to the death of C.N. II;
- d. Loss of society, enjoyment and care and comfort that will occur in reasonable probability occur in the future;
- e. Mental anguish in the past;
- f. Mental anguish that in reasonable probability will occur in the future related to the death of C.N. II;
- g. Loss of companionship in the past;
- h. Loss of companionship that in reasonable probability will occur in the future;
- i. Grief in the past;
- j. Grief that will in reasonable probability occur in the future.

JURY DEMAND

16. The Plaintiffs hereby demand that this case be presented to a jury at the time of trial and that the jury decide all presented issues of fact. The Plaintiffs paid the required jury fee at the time of filing of this Petition for the privilege of having a jury decide this case.

ALL CONDITIONS PRECEDENT

17. All conditions precedent to the filing of this lawsuit have occurred or have been performed.

EXHIBIT A-1**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Defendants be cited to appear before this Court and answer to for the claims of Plaintiffs after a full and final hearing and that Plaintiffs be awarded damages for their injuries and the death of their child C.N. II and all other relief, in law or in equity that they may show themselves justly entitled.

Respectfully submitted,

MIKE KERENSKY, PLLC

By: /s/ Michael W. Kerensky .

Michael W. Kerensky
Texas Bar No. 11331500
440 Louisiana, Suite 2300
Houston, Texas 77002
713 228-5100 – Telephone
713 228-6138 – Facsimile
mike@kerenskylawfirm.com

ATTORNEY FOR PLAINTIFF

EXHIBIT A-1

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Erica Fehr on behalf of Michael Kerensky
Bar No. 11331500
erica@kerenskylawfirm.com
Envelope ID: 89979180
Filing Code Description: Petition
Filing Description: Plaintiffs' Original Petition
Status as of 7/19/2024 4:43 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Erica Fehr		erica@kerenskylawfirm.com	7/19/2024 2:49:31 PM	SENT
Michael Kerensky		mike@kerenskylawfirm.com	7/19/2024 2:49:31 PM	SENT

**SERVICE FEE NOT COLLECTED
BY DISTRICT CLERK**

EXHIBIT A-2

THE STATE OF TEXAS

CITATION

**TO: THE CITY OF STAFFORD
C/O MAYOR MR KEN MATHEW
2610 S NORTH MAIN STREET
STAFFORD TX 77477**

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on Monday next following the expiration of twenty days after you were served this citation and **PLAINTIFFS' ORIGINAL PETITION** filed on **July 19, 2024**, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

The case is presently pending before the **434TH JUDICIAL DISTRICT COURT** of Fort Bend County sitting in Richmond, Texas. It bears cause number **24-DCV-318392** and is styled:

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The name and address of the attorney for **PLAINTIFF(S)** is:

**MICHAEL KERENSKY
MIKE KERENSKY PLLC
THE LYRIC CENTRE
440 LOUISIANA SUITE 2300
HOUSTON TX 77002
713-228-5100**

The nature of the demands of said **PLAINTIFF(S)** is shown by a true and correct copy of the **PLAINTIFFS' ORIGINAL PETITION** accompanying this citation and made a part hereof.

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**BEVERLEY MCGREW WALKER, DISTRICT CLERK
FORT BEND COUNTY, TEXAS**

Physical Address:

1422 Eugene Heimann Circle, Room 31004
Richmond, Texas 77469

Mailing Address:

301 Jackson Street, Room 101
Richmond, Texas 77469

By: _____

Deputy District Clerk SYLVIE LE
Telephone: (281) 341-3754



EXHIBIT A-2

EXHIBIT A-2

24-DCV-318392

434th Judicial District Court

Chioma Duru, MD and Chizara Nwakanma, Individually and on Behalf of Their Unborn Baby C.N.II V. Union Pacific Railroad Company and The City of Stafford

OFFICER'S OR AUTHORIZED PERSON'S RETURN

Came to hand on the _____ day of _____, 20__, at ____ o'clock ____ M. Executed at _____, within the County of _____, at ____ o'clock ____ M. on the _____ day of _____, 20__, by delivering to the within named _____, in person, a true copy of this citation together with the accompanying copy of the petition, having first attached such copy of such petition to such copy of citation and endorsed on such copy of citation the date of delivery.

Total fee for serving ____ citation at \$80.00 each \$ _____

Name of Officer or Authorized Person

County, Texas

By: _____
Signature of Deputy or Authorized Person

*State day and hour and place of serving each person.

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

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"My name is _____,
(First, Middle, Last)

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(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____
day of _____.

Declarant / Authorized Process Server

(Id # & expiration of certification)

ORIGINAL

Citation issued to The City of Stafford on 7/27/2024.

EXHIBIT A-2

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BY DISTRICT CLERK**

THE STATE OF TEXAS

CITATION

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FORT BEND COUNTY, TEXAS**

Physical Address:

1422 Eugene Heimann Circle, Room 31004
Richmond, Texas 77469

Mailing Address:

301 Jackson Street, Room 101
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By: 

Deputy District Clerk SYLVIE LE
Telephone: (281) 341-3754



SERVICE

EXHIBIT A-2

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24-DCV-318392

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SERVICE

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EXHIBIT A-2

**SERVICE FEE NOT COLLECTED
BY DISTRICT CLERK**

EXHIBIT A-3

THE STATE OF TEXAS

CITATION

**TO: UNION PACIFIC RAILROAD COMPANY
C/O CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

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The name and address of the attorney for **PLAINTIFF(S)** is:

**MICHAEL KERENSKY
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FORT BEND COUNTY, TEXAS**

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Richmond, Texas 77469

Mailing Address:

301 Jackson Street, Room 101
Richmond, Texas 77469

By: _____

Sylvie Le
Deputy District Clerk SYLVIE LE
Telephone: (281) 341-3754



EXHIBIT A-3

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24-DCV-318392

434th Judicial District Court

Chioma Duru, MD and Chizara Nwakanma, Individually and on Behalf of Their Unborn Baby C.N.II V. Union Pacific Railroad Company and The City of Stafford

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Came to hand on the _____ day of _____, 20__, at ____ o'clock ____ M. Executed at _____, within the County of _____, at ____ o'clock ____ M. on the _____ day of _____, 20__, by delivering to the within named _____, in person, a true copy of this citation together with the accompanying copy of the petition, having first attached such copy of such petition to such copy of citation and endorsed on such copy of citation the date of delivery.

Total fee for serving ____ citation at \$80.00 each \$ _____

Name of Officer or Authorized Person

County, Texas

By: _____
Signature of Deputy or Authorized Person

*State day and hour and place of serving each person.

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____,
(First, Middle, Last)

my date of birth is _____, and my address is _____
(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____
day of _____.

Declarant / Authorized Process Server

(Id # & expiration of certification)

ORIGINAL

Citation issued to Union Pacific Railroad Company on 7/27/2024.

EXHIBIT A-3

EXHIBIT A-3

**SERVICE FEE NOT COLLECTED
BY DISTRICT CLERK**

THE STATE OF TEXAS

CITATION

**TO: UNION PACIFIC RAILROAD COMPANY
C/O CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on Monday next following the expiration of twenty days after you were served this citation and **PLAINTIFFS' ORIGINAL PETITION** filed on **July 19, 2024**, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

The case is presently pending before the **434TH JUDICIAL DISTRICT COURT** of Fort Bend County sitting in Richmond, Texas. It bears cause number **24-DCV-318392** and is styled:

**CHIOMA DURU, MD AND CHIZARA NWAKANMA, INDIVIDUALLY AND ON BEHALF OF THEIR UNBORN
BABY C.N.II V. UNION PACIFIC RAILROAD COMPANY AND THE CITY OF STAFFORD**

The name and address of the attorney for **PLAINTIFF(S)** is:

**MICHAEL KERENSKY
MIKE KERENSKY PLLC
THE LYRIC CENTRE
440 LOUISIANA SUITE 2300
HOUSTON TX 77002
713-228-5100**

The nature of the demands of said **PLAINTIFF(S)** is shown by a true and correct copy of the **PLAINTIFFS' ORIGINAL PETITION** accompanying this citation and made a part hereof.

If this Citation is not served, it shall be returned unserved. Issued under my hand and seal of said Court, at Richmond, Texas, **on this the 27th day of July, 2024.**

**BEVERLEY MCGREW WALKER, DISTRICT CLERK
FORT BEND COUNTY, TEXAS**

Physical Address:

1422 Eugene Heimann Circle, Room 31004
Richmond, Texas 77469

Mailing Address:

301 Jackson Street, Room 101
Richmond, Texas 77469

By: 

Deputy District Clerk SYLVIE LE
Telephone: (281) 341-3754



SERVICE

EXHIBIT A-3

EXHIBIT A-3

24-DCV-318392

434th Judicial District Court

Chioma Duru, MD and Chizara Nwakanma, Individually and on Behalf of Their Unborn Baby C.N.II V. Union Pacific Railroad Company and The City of Stafford

OFFICER'S OR AUTHORIZED PERSON'S RETURN

Came to hand on the _____ day of _____, 20__, at ____ o'clock ____ M. Executed at _____, within the County of _____, at ____ o'clock ____ M. on the _____ day of _____, 20__, by delivering to the within named _____, in person, a true copy of this citation together with the accompanying copy of the petition, having first attached such copy of such petition to such copy of citation and endorsed on such copy of citation the date of delivery.

Total fee for serving ____ citation at \$80.00 each \$ _____

Name of Officer or Authorized Person

County, Texas

By: _____
Signature of Deputy or Authorized Person

*State day and hour and place of serving each person.

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____,
(First, Middle, Last)

my date of birth is _____, and my address is _____
(Street, City, Zip)

_____."

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of _____.

Declarant / Authorized Process Server

(Id # & expiration of certification)

SERVICE

Citation issued to Union Pacific Railroad Company on 7/27/2024.

EXHIBIT A-3

EXHIBIT A-4

**SERVICE FEE NOT COLLECTED
BY DISTRICT CLERK**

THE STATE OF TEXAS

CITATION

**TO: THE CITY OF STAFFORD
C/O MAYOR MR KEN MATHEW
2610 S NORTH MAIN STREET
STAFFORD TX 77477**

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on Monday next following the expiration of twenty days after you were served this citation and **PLAINTIFFS' ORIGINAL PETITION** filed on **July 19, 2024**, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

The case is presently pending before the **434TH JUDICIAL DISTRICT COURT** of Fort Bend County sitting in Richmond, Texas. It bears cause number **24-DCV-318392** and is styled:

**CHIOMA DURU, MD AND CHIZARA NWAKANMA, INDIVIDUALLY AND ON BEHALF OF THEIR UNBORN
BABY C.N.II V. UNION PACIFIC RAILROAD COMPANY AND THE CITY OF STAFFORD**

The name and address of the attorney for **PLAINTIFF(S)** is:

**MICHAEL KERENSKY
MIKE KERENSKY PLLC
THE LYRIC CENTRE
440 LOUISIANA SUITE 2300
HOUSTON TX 77002
713-228-5100**

The nature of the demands of said **PLAINTIFF(S)** is shown by a true and correct copy of the **PLAINTIFFS' ORIGINAL PETITION** accompanying this citation and made a part hereof.

If this Citation is not served, it shall be returned unserved. Issued under my hand and seal of said Court, at Richmond, Texas, **on this the 27th day of July, 2024.**

**BEVERLEY MCGREW WALKER, DISTRICT CLERK
FORT BEND COUNTY, TEXAS**

Physical Address:

1422 Eugene Heimann Circle, Room 31004
Richmond, Texas 77469

Mailing Address:

301 Jackson Street, Room 101
Richmond, Texas 77469

By: 

Deputy District Clerk SYLVIE LE
Telephone: (281) 341-3754



EXHIBIT A-4

24-DCV-318392

434th Judicial District Court

Chioma Duru, MD and Chizara Nwakanma, Individually and on Behalf of Their Unborn Baby C.N.II V. Union Pacific Railroad Company and The City of Stafford

OFFICER'S OR AUTHORIZED PERSON'S RETURN

Came to hand on the _____ day of _____, 20__, at _____ o'clock ____ M. Executed at _____, within the County of _____, at _____ o'clock ____ M. on the _____ day of _____, 20__, by delivering to the within named _____, in person, a true copy of this citation together with the accompanying copy of the petition, having first attached such copy of such petition to such copy of citation and endorsed on such copy of citation the date of delivery.

Total fee for serving ____ citation at \$80.00 each \$ _____

Name of Officer or Authorized Person

County, Texas

By: _____

Signature of Deputy or Authorized Person

*State day and hour and place of serving each person.

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is _____,
(First, Middle, Last)

my date of birth is _____, and my address is _____
(Street, City, Zip)

_____."

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____
day of _____.

Declarant / Authorized Process Server

(Id # & expiration of certification)

**Affidavit of Service
is attached**

ORIGINAL

Citation issued to The City of Stafford on 7/27/2024.

EXHIBIT A-4

EXHIBIT A-4

CAUSE NO. 24-DCV-318392

CHIOMA DURU, MD AND CHIZARA NWAKANMA,
INDIVIDUALLY AND ON BEHALF OF THEIR UNBORN
BABY C.N.II

Plaintiff,

VS.

UNION PACIFIC RAILROAD COMPANY AND THE CITY
OF STAFFORD

Defendant.

§

§

§

§

§

§

§

IN THE 434TH

JUDICIAL DISTRICT COURT

OF FORT BEND COUNTY, TEXAS

AFFIDAVIT OF SERVICE

"The following came to hand on Jul 30, 2024, 12:07 pm,

CITATION AND PLAINTIFF'S ORIGINAL PETITION,

and was executed at 2610 South Main Street, Stafford, TX 77477 within the county of Fort Bend at 03:03 PM on Tue, Jul 30 2024, by delivering a true copy to the within named

THE CITY OF STAFFORD BY DELIVERING TO THE CITY SECRETARY, ROXANNE BENITEZ

in person, having first endorsed the date of delivery on same.

I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to service of Process. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."

My name is Clark R. Dickenscheidt, my date of birth is [REDACTED] and my address is 22503 Katy Freeway, Katy, TX 77450, and United States of America. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Fort Bend County, State of TX, on July 31, 2024.



Clark R. Dickenscheidt
Certification Number: PSC# 2996
Certification Expiration: 08/31/2025

EXHIBIT A-5

Filed
8/16/2024 5:25 PM
Beverley McGrew Walker
District Clerk
Fort Bend County, Texas
Erica Rodriguez

CAUSE NO. 24-DCV-318392

CHIOMA DURU, MD AND CHIZARA
NWAKANMA, INDIVIDUALLY AND ON
BEHALF OF THEIR UNBORN BABY C.N. II,

Plaintiff,

v.

UNION PACIFIC RAILROAD COMPANY
AND THE CITY OF STAFFORD

Defendants.

IN THE DISTRICT COURT

434TH JUDICIAL DISTRICT

FORT BEND COUNTY, TEXAS

AFFIDAVIT OF SERVICE

On this day personally appeared **Kathleen Miller** who, being by me duly sworn, deposed, and said:

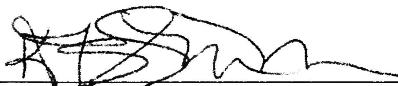
On July 30TH, 2024 @ 2:21 PM: I received a CITATION AND PLAINTIFF'S ORIGINAL PETITION for delivery to **UNION PACIFIC RAILROAD COMPANY** at 1999 Bryan Street, Suite 900, Dallas, TX 75201.

On August 05TH, 2024 @ 01:50 PM: I did personally deliver the above-stated documents to **UNION PACIFIC RAILROAD COMPANY, BY DELIVERING TO ITS REGISTERED AGENT, CT CORPORATION SYSTEM, WHERE THE DOCUMENT WAS ACCEPTED BY SHAINA FENIMORE, INTAKE SPECIALIST** at 1999 Bryan Street, Suite 900, Dallas, TX 75201.

I am a person over eighteen (18) years of age, and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to the service of process. I am not party to this suit nor related or affiliated with any herein and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."

My name is Kathleen M. Miller, my date of birth is [REDACTED] and my address is 1612 Warrington Way, Forney, Texas 75126, and United States of America. I declare under penalty of perjury that the foregoing is true and correct.

Executed in **DALLAS** County, State of **TEXAS**, on **August 16TH, 2024**.



Kathleen M. Miller
Certification Number: PSC-1898
Expiration Date: 03/31/2026

EXHIBIT A-5

EXHIBIT A-5

SERVICE FEE NOT COLLECTED
BY DISTRICT CLERK

THE STATE OF TEXAS

CITATION

TO: UNION PACIFIC RAILROAD COMPANY
C/O CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on Monday next following the expiration of twenty days after you were served this citation and **PLAINTIFFS' ORIGINAL PETITION** filed on **July 19, 2024**, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at [TexasLawHelp.org](https://www.texaslawhelp.org).

The case is presently pending before the **434TH JUDICIAL DISTRICT COURT** of Fort Bend County sitting in Richmond, Texas. It bears cause number **24-DCV-318392** and is styled:

**CHIOMA DURU, MD AND CHIZARA NWAKANMA, INDIVIDUALLY AND ON BEHALF OF THEIR UNBORN
BABY C.N.II V. UNION PACIFIC RAILROAD COMPANY AND THE CITY OF STAFFORD**

The name and address of the attorney for **PLAINTIFF(S)** is:

**MICHAEL KERENSKY
MIKE KERENSKY PLLC
THE LYRIC CENTRE
440 LOUISIANA SUITE 2300
HOUSTON TX 77002
713-228-5100**

The nature of the demands of said **PLAINTIFF(S)** is shown by a true and correct copy of the **PLAINTIFFS' ORIGINAL PETITION** accompanying this citation and made a part hereof.

If this Citation is not served, it shall be returned unserved. Issued under my hand and seal of said Court, at Richmond, Texas, **on this the 27th day of July, 2024.**

**BEVERLEY MCGREW WALKER, DISTRICT CLERK
FORT BEND COUNTY, TEXAS**

Physical Address:

1422 Eugene Heimann Circle, Room 31004
Richmond, Texas 77469

Mailing Address:

301 Jackson Street, Room 101
Richmond, Texas 77469

By: 

Deputy District Clerk SYLVIE LE
Telephone: (281) 341-3754



SERVICE

EXHIBIT A-5

EXHIBIT A-6

CAUSE NO. 24-DCV-318392

CHIOMA DURU, MD and CHIZARA,	§	IN THE DISTRICT COURT OF
NWAKANMA, INDIVIDUALLY AND	§	
ON BEHALF OF THEIR UNBORN	§	
BABY C.N. II	§	
	§	
v.	§	FORT BEND COUNTY, TEXAS
	§	
UNION PACIFIC RAILROAD	§	
COMPANY and CITY OF STAFFORD	§	434TH JUDICIAL DISTRICT

DEFENDANT CITY OF STAFFORD'S ORIGINAL ANSWER

Defendant, City of Stafford ("City"), appears to file its original answer to Plaintiffs' Original Petition and would respectfully show the Court the following:

1. The City generally denies Plaintiffs' allegations under Rule 92 of the Texas Rules of Civil Procedure and demands that Plaintiffs prove their allegations by a preponderance of the credible evidence as is required by the Constitution and the laws of the State of Texas.

2. The City invokes governmental immunity as a jurisdictional bar and defense to Plaintiffs' claims; and the City further invokes the damage caps in the Tort Claims Act to limit any recovery. *See* TEX. CIV. PRAC. & REM. CODE § 101.023.

* * * * *

Accordingly, Defendant City of Stafford respectfully requests that Plaintiffs take nothing, that Defendant City be awarded its costs of court, and such other and further relief, whether legal or equitable, to which Defendant may be justly entitled.

EXHIBIT A-6

Respectfully submitted,

VIADA & STRAYER

By: /s/ **Ramón G. Viada III**

Ramón G. Viada III

State Bar No. 20559350

17 Swallow Tail Court

The Woodlands, Texas 77381

(281) 419-6338

rayviada@viadastrayer.com

ATTORNEYS FOR DEFENDANT

CITY OF STAFFORD, TEXAS

CERTIFICATE OF SERVICE

I certify that all counsel of record have been served a true and correct copy of the foregoing document in accordance with Tex. R. Civ. Proc. 21a by electronic submission for filing and service through the Texas Online EFiled for Courts on August 26, 2024.

/s/ **Ramón G. Viada III**

Ramón G. Viada III

EXHIBIT A-7

Filed
8/26/2024 8:53 AM
Beverley McGrew Walker
District Clerk
Fort Bend County, Texas
Katherine Cavazos

CAUSE NO. 24-DCV-318392

CHIOMA DURU, MD and CHIZARA	§	IN THE DISTRICT COURT
NWAKANMA, Individually and on Behalf	§	
of Their Unborn Baby C.N. II,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	OF FORT BEND COUNTY, TEXAS
	§	
UNION PACIFIC RAILROAD COMPANY	§	
and THE CITY OF STAFFORD,	§	
	§	
<i>Defendants.</i>	§	434 TH JUDICIAL DISTRICT COURT

**DEFENDANT UNION PACIFIC RAILROAD COMPANY'S
ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant UNION PACIFIC RAILROAD COMPANY (hereinafter "Union Pacific") and files this Original Answer to Plaintiff's Original Petition and would respectfully show as follows:

**I.
GENERAL DENIAL**

1. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Union Pacific generally denies the allegations contained in Plaintiff's Original Petition, and any subsequent amendments, and respectfully requests that Plaintiffs be required to prove their claims by a preponderance of the evidence as required by law.

**II.
AFFIRMATIVE DEFENSES**

2. Union Pacific would show that at the times and on the occasions in question there was a failure on the part of the Plaintiff Chioma Duru to exercise that degree of care that would have been exercised by an ordinarily prudent person under the same or similar circumstances, and

EXHIBIT A-7

such failure was a proximate cause and/or sole proximate cause and/or producing cause and/or the sole producing cause and/or a cause in whole or in part of the incident made the basis of this suit and the resulting injuries and damages alleged by Plaintiffs.

3. Pleading further and in the alternative, Union Pacific asserts that the matters about which the Plaintiffs complain were not proximately caused, in whole or in part, by any acts of negligence on the part of Union Pacific. To the contrary, the accident was caused by Chioma Duru's failure to use ordinary care under existing circumstances in the incident alleged. Specifically, she was responsible for the following acts or omissions which constituted negligence and were a proximate cause of the accident in question:

- (a) In failing to keep a proper lookout;
- (b) In failing to heed the warnings and presence of an approaching train and/or rail equipment at the crossing;
- (e) In failing to yield the right-of-way;
- (f) In failing to take proper evasive action to avoid the accident; and
- (g) In stopping and remaining on the railroad tracks.

4. Defendant would further show that Chioma Duru violated applicable traffic laws, including but not limited to, § 545.302 of the Texas Transportation Code. Her violation of the above-referenced traffic code was a proximate cause of the accident and constitute negligence per se.

5. In the alternative, and without waiving the foregoing, Union Pacific affirmatively alleges that to the extent that Chioma Duru's conduct was a contributing, proximate or sole proximate cause of the Plaintiffs' injuries and other damages alleged in this lawsuit, Union Pacific raises the doctrine of comparative fault of the Plaintiff in causing this occurrence pursuant to

EXHIBIT A-7

Chapter 33 of the Texas Civil Practice and Remedies Code.

6. In the alternative, and without waiving the foregoing, Union Pacific affirmatively alleges that to the extent that Plaintiffs failed to mitigate the effect of the alleged injuries and damages as required by law, Plaintiffs' claims are barred, in whole or in part. Further, to the extent that Plaintiffs failed to mitigate their damages, such conduct is a cause or sole cause of Plaintiffs' alleged damages.

7. Pleading further, Union Pacific would show that the Plaintiffs' recoveries for medical expenses are limited to the reasonable and necessary expenses which were actually paid or incurred, rather than the total of the charged medical expenses. In the alternative, Union Pacific is entitled to a credit against any medical expenses damages award for amounts not charged to the Plaintiffs, amounts written off or discounted, or, in any event, in an amount equal to the difference between the total charges and the sum which was paid and accepted as payment in full.

8. Defendant alleges that under the Supremacy Clause of the U.S. Constitution, any claims against Defendant with respect to the construction, maintenance, and inspection of the railroad tracks at the crossing in question are preempted by Federal Law, including the interstate Commerce Termination Act, (49 U.S.C. § 10101 *et seq.*, the Federal Rail Safety Act of 1970 (49 U.S.C. § 2010 *et seq.*) ("FRSA"), and the Highway Safety Act of 1973 (23 U.S.C. § 130 *et seq.*), as amended, and the regulations pursuant thereto, including but not limited to, regulations promulgated by the Federal Railroad Administration, as well as case law applying such preemption.

9. Pleading further, Union Pacific would show that Plaintiffs' claims are preempted by federal law including the Federal Railway Safety Act, which expressly preempts the state standards of care where the relevant federal agency has promulgated regulations covering the

EXHIBIT A-7

subject matter of the state requirement. The Interstate Commerce Commission Termination Act of 1995 also preempts Plaintiffs' claims. Where federal preemption applies, Union Pacific's duty of care was limited to compliance with federal statutes and regulations.

10. In the alternative, and without waiving the foregoing, Union Pacific affirmatively asserts that in the event of recovery of damages by Plaintiffs from Union Pacific, any award of pre- and/or post-judgment interest is limited by the provisions of Sections 304.103, 304.1045, and 304.003, Texas Finance Code.

11. In the alternative, and without waiving the foregoing, Union Pacific requests that, if at the time of submission, Plaintiffs seek recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value, etc., the Court, in accordance with the statutory requirements imposed by TEX. CIV. PRAC. & REM. CODE §18.091, require that evidence to prove the loss be presented in the form of a net loss after reduction for income tax payments or unpaid tax liability pursuant to any federal income tax.

12. Union Pacific denies that it was negligent.

III.
JURY DEMAND

13. Union Pacific demands a jury trial in this cause.

IV.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Union Pacific Railroad Company asks the Court to dismiss this suit or render judgment that Plaintiffs take nothing, assess costs against Plaintiff, and award all other and further relief to which it may show itself to be justly entitled.

EXHIBIT A-7

Respectfully submitted,

/s/ Robert K. Piwetz

John W. Proctor

State Bar No. 16347300

Robert K. Piwetz

State Bar No. 24041700

BROWN, PROCTOR & HOWELL, L.L.P.

830 Taylor Street

Fort Worth, Texas 76102

Telephone: 817.332.1391

Fax: 817.870.2427

Email: jproctor@brownproctor.com
rpiwetz@brownproctor.com

**ATTORNEYS FOR DEFENDANT UNION
PACIFIC RAILROAD COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served by the Court's electronic filing system on all counsel of record on this 26th day of August 2024.

/s/ Robert K. Piwetz

Robert K. Piwetz

EXHIBIT A-7

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Kay Green on behalf of Robert Piwetz
Bar No. 24041700
kgreen@brownproctor.com
Envelope ID: 91299574
Filing Code Description: Answer/Response
Filing Description: Defendant Union Pacific Railroad Company's Original Answer
Status as of 8/26/2024 3:07 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Michael Kerensky		mike@kerenskylawfirm.com	8/26/2024 8:53:43 AM	SENT
Erica Fehr		erica@kerenskylawfirm.com	8/26/2024 8:53:43 AM	SENT
Tiffany Costanzo		tcostanzo@brownproctor.com	8/26/2024 8:53:43 AM	SENT
John WProctor		jproctor@brownproctor.com	8/26/2024 8:53:43 AM	SENT
Robert KPiwetz		rpiwetz@brownproctor.com	8/26/2024 8:53:43 AM	SENT
Kay HGreen		kgreen@brownproctor.com	8/26/2024 8:53:43 AM	SENT
Lacy KKinsey		lkinsey@brownproctor.com	8/26/2024 8:53:43 AM	SENT

EXHIBIT A-8

Filed
9/19/2024 5:50 PM
Beverley McGrew Walker
District Clerk
Fort Bend County, Texas
Alvi Aimen

CAUSE NO. 24-DCV-318392

CHIOMA DURU, MD and CHIZARA,	§	IN THE DISTRICT COURT OF
NWAKANMA, INDIVIDUALLY AND	§	
ON BEHALF OF THEIR UNBORN	§	
BABY C.N. II	§	
	§	
v.	§	FORT BEND COUNTY, TEXAS
	§	
UNION PACIFIC RAILROAD	§	
COMPANY and CITY OF STAFFORD	§	434TH JUDICIAL DISTRICT

DEFENDANT CITY OF STAFFORD'S PLEA TO THE JURISDICTION

Defendant, City of Stafford ("City"), moves to dismiss Plaintiffs' claims against the City, with prejudice, for want of subject-matter jurisdiction on the ground of governmental immunity from suit.

I. Nature of the Case.

1. This is a premises liability case. The main plaintiff, Dr. Chioma Duru ("Duru"), alleges she was injured and her unborn child killed when her stationary vehicle, stopped in a railroad crossing behind an 18-wheeler and awaiting a traffic signal to change, was struck by a moving train. The location of the accident – at the intersection of North Main Street and Stafford Road – can be viewed on Google Maps, <https://maps.app.goo.gl/x7z6FRm3pzs5EpMw9>.

II. Standard of Review.

2. An immunity-based plea to the jurisdiction is reviewed under the pleading and proof standard set forth in *Texas Dep't of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 225-26 (Tex. 2004). Analysis of whether jurisdiction exists begins with the plaintiff's live pleadings. *Id.* at 226. The plaintiff has the initial burden of alleging facts

EXHIBIT A-8

that affirmatively demonstrate the trial court's jurisdiction to hear the cause. *Id.* (citing *Texas Ass'n of Bus. v. Texas Air Control Bd.*, 852 S.W.2d 440, 446 (Tex. 1993)). The plaintiff must plead facts that plausibly show that claims asserted fit within a recognized waiver of immunity. *See id.*; *City of Dallas v. Sanchez*, 494 S.W.3d 722, 725 (Tex. 2016) (per curiam) (citing *Wooley v. Schaffer*, 447 S.W.3d 71, 75-76 (Tex. App.—Houston [14th Dist.] 2014, pet. denied)); *City of Magnolia 4A Econ. Dev. Corp.*, 533 S.W.3d 297 (Tex. 2017) (“A pleadings challenge [to subject matter jurisdiction] argues that the plaintiff has not alleged facts that, if proven true, constitute a valid claim over which there is jurisdiction.”). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Wooley*, 447 S.W.3d at 76 (internal quotations omitted).

3. Also, “[p]arties may submit evidence at the plea-to-the-jurisdiction stage, and the trial court's review generally mirrors the summary judgment standard.” *Chambers-Liberty Counties Navigation Dist. v. State*, 575 S.W.3d 339, 345 (Tex. 2019). “It is unquestionably [the] plaintiff[s] burden” to adduce evidence to demonstrate the existence of a fact issue if a governmental entity introduces evidence controverting jurisdictional facts in support of its plea. *City of Houston v. Harris*, 192 S.W.3d 167, 175 (Tex. App.—Houston [14th Dist.] 2006, no pet.). “[I]f the relevant evidence is undisputed or fails to raise a fact question on the jurisdictional issue, the trial court rules on the plea to the jurisdiction as a matter of law.” *Chambers-Liberty Counties Navigation Dist.*, 575 S.W.3d at 345 (quoting *Miranda*, 133 S.W.3d at 228).

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III. Grounds for Jurisdictional Dismissal.

4. For the following reasons, the City requests the Court to dismiss this case for want of subject-matter jurisdiction:

- (a) Absent a waiver of immunity under the Tort Claims Act, TEX. CIV. PRAC. & REM. CODE § 101.001 *et seq.*, cities are immune from suit – a jurisdictional bar – where, as here, the suit arises out of the alleged negligent maintenance of traffic signal lights. This claims in this case against the City do not fit within the Act’s waiver provision, Section 101.021.
- (b) In a premises liability case under the Tort Claims Act, the plaintiff must allege that the governmental defendant owned and controlled the unreasonably dangerous property in question; otherwise, no duty to warn of the condition or maintain it arises. On the face of the pleadings, no facts are alleged to show plausibly that the City owned or controlled the traffic signals or other mechanical protective devices at the railroad crossing in question or at the intersection of 2800 North Main Street and 13900 Stafford Road. Indeed, the Court can take judicial notice of Fort Bend County Appraisal District Records showing that the North Main Street right-of-way is owned by the State of Texas, not by the City, and that the trail tracks are owned by Union Pacific Railroad Company, not by the City.
- (c) Consistent with the fact that the City does not own or control the traffic control devices at that intersection, the evidence shows that the City has never sought to maintain those devices.
- (d) Plaintiffs’ allegations that the City misled the Federal Railroad Administration to classify the intersection in question as a “no-whistle zone” does not state a claim within the Tort Claims Act waiver provision, because the the City’s alleged provision of misinformation to the Federal agency, even if true, is a use (or misuse) of information, not a use by the City of property.

EXHIBIT A-8

IV. Background.

5. The City has answered the lawsuit with a general denial, and does not concede any facts alleged by the Petition. At this early stage of the case, however, and mindful of the appropriate standard of review in a pleadings challenge, the City acknowledges that the Court must accept as true any well pled factual allegations.

6. In this premises liability case, the Petition identifies the railroad crossing where the accident occurred – near the intersection of 2800 North Main Street and 13900 Stafford Road. No factual allegation is made that the City of Stafford owns or controls either the traffic signal at that intersection or the mechanical crossing arms and warning lights mounted beside the railroad tracks. Appraisal district records show that North Main Street at that location is owned by the State of Texas, not by the City. *See* Fort Bend County Central Appraisal District Records, Property ID: R136396: <https://gis.bisclient.com/fortbendcad/index.html>. The train tracks at that location are owned by Union Pacific Railroad Company, not by the City. *Id.*, Property ID: R418676. The City requests the Court to take judicial notice of these appraisal district records to show that the City does not own these premises. *See Alsobrook v. MTGLQ Inv'rs, LP*, 657 S.W.3d 327, 329-30 (Tex. App.—Dallas 2021) (taking judicial notice of appraisal district's online records of property ownership, because they “are publicly available and are not subject to reasonable dispute because the information can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned”), *aff'd as modified*, 656 S.W.3d 394 (Tex. 2022); *Garza v. Garza*, No. 14-22-00810-CV, 2024 Tex. App. LEXIS 1839, *11, 2024 WL 1102973 (Tex.

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App.-Houston [14th Dist.] Mar. 14, 2024, no pet.) (mem. op.) (finding no standing in suit to divide marital estate in homestead property, reasoning “[t]he Harris County Appraisal District’s records confirm that Eric and Dena are no longer the owners of the subject property, and we take judicial notice of this fact.”). The City has submitted with this Plea the unsworn Declaration of Mr. Otis Brown, Superintendent of Public Works for the City of Stafford, who has testified that the City does not own or maintain any of these traffic signals and has no agreement with any person to keep them in repair.

See **Exhibit 1**.

7. According to the Petition, at Paragraph 7:

The railroad crossing where this crash occurred is equipped with gates and lights. In addition to flashing lights and lowering gates, the signals are interconnected with the traffic light at the corner of Stafford Road and North Main Street. This interconnection is designed to protect traffic that gets stopped between the railroad tracks at a red light at North Main Street and Stafford Road. If that light remains red as a train approaches, the traffic on Stafford Road between the red light at North Main Street and the railroad tracks is at risk of getting trapped at a point where they do not clear the tracks. The interconnect feature of the railroad warning lights and gates and the traffic light at North Main Street and Stafford Road, if operating as designed and properly programmed, will turn the light controlling traffic on Stafford Street at North Main Street to a green signal at approximately the time the gates lower for an approaching train. The gates lower as a train approaches this crossing long before the train enters the crossing at Stafford Road. If the light at North Main Street turns green as those gates lower, there is plenty of time for traffic stopped between the rails of the track and the traffic light at North Main Street to clear and avoid any risk of collision with the oncoming train. The Union Pacific Railroad Company knew that if the traffic interconnect feature of this warning system did not function properly, it created an unreasonably dangerous condition that would in all probability lead to a catastrophic collision between a vehicle trapped between a red light at North Main Street and the railroad tracks at the Stafford Road Crossing. The City of Stafford knew that if the traffic interconnect feature of this warning system did not function properly, it

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created an unreasonably dangerous condition that would in all probability lead to a catastrophic collision between a vehicle trapped between a red light at North Main Street and the railroad tracks at the Stafford Road Crossing. The Union Pacific Railroad Company and/or the City of Stafford had a duty to inspect, maintain and repair the railroad crossing lights and gates and the interconnected traffic signal at North Main Street in a way that maintained the operation of that warning system as designed; a train approaches, the lights and gates go down and the light at Stafford Road and North Main Street turns green to allow all traffic between the tracks and the light to clear before the train arrives at the crossing. The Union Pacific Railroad and/or the City of Stafford were negligent regarding the maintenance, inspection and repair of the warning system at the Stafford Road Crossing and that negligence was a proximate cause of the crash made the basis of this action and the devastating consequences suffered by the Plaintiffs.

8. Paragraph 8 of the Petition, which alleges how the accident occurred, states that Plaintiff Duru was stopped by the red light on North Main Street, behind an 18-wheeler truck and trailer. Allegedly, her car was stopped on the railroad tracks. Because her car window was up, she could not hear the approaching train. She did not hear any train whistle or ringing bells at the crossing. The light at North Main Street did not turn green to allow traffic in front of her to cross Main Street and thereby create room for her to move forward off of the railroad tracks.

9. Paragraph 9 of the Petition further alleges that the City is responsible for the accident because, based on alleged misinformation the City provided to the Federal Railroad Administration (FRA), the FRA excused the engineers of trains approaching that intersection from the obligation to sound their whistle to warn motorists of the approach of the train. This allegation is not part of the single Count asserted against the City. However, the City will address it as such out of an abundance of caution.

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V. Argument.

10. Absent legislative consent, governmental immunity protects cities from tort claims arising out of municipal governmental functions. *See Reata Constr. Corp. v. City of Dallas*, 197 S.W.3d 371, 374-75 (2006). Governmental immunity, being an immunity from suit, operates as a subject-matter jurisdictional bar. *Tarrant Cty. v. Bonner*, 574 S.W.3d 893, 900 (Tex. 2019) (citing *Rusk State Hosp. v. Black*, 392 S.W.3d 88, 93 (Tex. 2012)). Immunity from suit must be decided on a claim-by-claim basis. *Thomas v. Long*, 207 S.W.3d 334, 338-39 (Tex. 2006).

11. Plaintiffs' claims arise out of the City's alleged failure to maintain traffic warning and control signals. Regulation of traffic, maintenance of traffic signals, signs and standards, and warning signals are all governmental functions to which immunity attaches. *See* TEX. CIV. PRAC. & REM. CODE § 101.0215(a)(20), (21), 31). It follows that the City cannot be sued in this case except for claims and damages waived by the Tort Claims Act. *See* TEX. CIV. PRAC. & REM. CODE § 101.025.

12. The Tort Claims Act does not waive immunity to claims arising from "the absence, condition, or malfunction of a traffic or road sign, signal or warning device unless the absence, condition, or malfunction is not corrected by **the responsible governmental unit** within a reasonable time after notice." TEX. CIV. PRAC. & REM. CODE § 101.060(a)(2) (emphasis added).

13. "The Transportation Code (in addition to its precursor statutes) places the maintenance and improvement of the state highway system under the 'exclusive and direct control' of the Texas Department of Transportation and charges the Texas

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Transportation Commission with providing for the “efficient maintenance of the system.” *Sipes v. City of Longview*, 925 S.W.2d 764, 767 (Tex. App.—Tyler 1996, writ denied) (quoting TEX. TRANSP. CODE §§ 224.031(a), 224.032(a)); *see also City of Jersey Vill. v. Killough*, No. 01-20-00823-CV, 2021 Tex. App. LEXIS 9856, *18, 2021 WL 5903988 (Tex. App.—Houston [1st Dist.] Dec. 14, 2021, no pet.) (mem. op.) (“the City’s status as ‘a home-rule municipality, standing alone, without a showing of ownership, dominion, or control of the concrete median barrier or roadway at the relevant location, does not create any duty’ on the part of the City”) (brackets deleted, quoting *Sipes*, 925 S.W.2d at 767).

14. Plaintiffs’ alleged that “The Union Pacific Railroad Company and/or the City of Stafford had a duty to inspect, maintain and repaid [sic] the railroad crossing lights and gates and the interconnected traffic signal at North Main Street in a way that maintained the operation of that warning system as designed” Petition, at ¶ 7. But Plaintiffs have made no factual allegations to support the existence of any such duty on the part of the City. Thus, Plaintiffs have failed to show plausibly that the City of Stafford was the “responsible governmental unit” for maintaining any of the traffic signals and warning devices at issue. No allegation is made at all about the ownership of these fixtures.

15. As a matter of fact, the City had no such responsibility to maintain these devices . The traffic light on North Main Street is located in a State of Texas right-of-way. The railroad crossing is located on Railroad property. The City has no contract

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with either the State, or the Railroad, to maintain these fixtures. *See* Brown Declar. (Ex. 1), at ¶ 2.

16. Therefore, the City breached no duty owed to Plaintiffs to maintain the traffic controls and signals; and that claim should be dismissed with prejudice. *See Anderson v. Anderson County*, 6 S.W.3d 612, 615 (Tex. App.—Tyler 1999, pet. denied) (affirming dismissal of signal malfunction claim against State and Department of Transportation, where “[t]he summary judgment evidence showed that the stop sign and the alleged overgrowth were located on the county right-of-way and not on the State’s premises,” “County Road 420 was not part of the state highway system, and the State had not undertaken responsibility for trimming vegetation on the county right-of-way,” and “[t]hus, even if the State or the Department had been given notice of the vegetation on the stop sign, neither was a ‘responsible governmental unit’ under section 101.060, and thus, neither was obligated to warn of the alleged defect or condition under section 101.022(b).”

17. The assertion claim in Paragraph 9 of the Petition – that the City misled the Federal Railroad Administration into designating the intersection a “no-whistle” or “quiet zone” – does not state a claim under the Tort Claims Act. Under Section 101.021(1) the Act, “a governmental unit’s employee must negligently operate or use the motor-driven equipment to satisfy this immunity waiver.” *Tex. DOT v. Self*, 690 S.W.3d 12, 23 (Tex. 2024). No allegation is made that a city employee was driving the train that did not blow the whistle. Rather, the claim is based on the City’s provision of information to the Railroad Administration. However, the City’s use or misuse of

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information does not establish a waiver of immunity under the Tort Claims Act. *Harris Cty. v. Annab*, 547 S.W.3d 609, 614 (Tex. 2018).

* * * * *

Accordingly, Defendant City of Stafford respectfully requests that the Court dismiss Plaintiffs' claims against the City, with prejudice, for want of subject matter jurisdiction and that the City be awarded its costs of court.

Respectfully submitted,

VIADA & STRAYER

By: /s/ **Ramón G. Viada III**

Ramón G. Viada III
State Bar No. 20559350
17 Swallow Tail Court
The Woodlands, Texas 77381
(281) 419-6338
rayviada@viadastrayer.com

ATTORNEYS FOR DEFENDANT
CITY OF STAFFORD, TEXAS

CERTIFICATE OF SERVICE

I certify that all counsel of record have been served a true and correct copy of the foregoing document in accordance with Tex. R. Civ. Proc. 21a by electronic submission for filing and service through the Texas Online EFiled for Courts on September 19, 2024.

/s/ **Ramón G. Viada III**

Ramón G. Viada III

EXHIBIT A-8

CAUSE NO. 24-DCV-318392

CHIOMA DURU, MD and CHIZARA,	§	IN THE DISTRICT COURT OF
NWAKANMA, INDIVIDUALLY AND	§	
ON BEHALF OF THEIR UNBORN	§	
BABY C.N. II	§	
	§	
v.	§	FORT BEND COUNTY, TEXAS
	§	
UNION PACIFIC RAILROAD	§	
COMPANY and CITY OF STAFFORD	§	434TH JUDICIAL DISTRICT

DECLARATION OF OTIS BROWN

My name is Otis Brown. My business address is 2610 S. Main Street, Stafford, Texas 77477. I am of sound mind, capable of making this Declaration, and have personal knowledge of the facts stated herein, and such facts are all true and correct.

I am the Street Superintendent for the Public Works Department of the City of Stafford. I have served in that capacity since January 2019. My work duties include maintenance of city street facilities such as traffic signals. The City does not maintain any traffic signals in any State right-of-way and has no agreement with any person, including the State, to maintain those signals. During my tenure with the City, the City has regarded the traffic light at the corner of Stafford Road and North Main Street to be a State (Department of Transportation) asset, and for that reason the City has not assumed responsibility for the maintenance of the signal. Similarly, railroad crossing signals and gates near that intersection are not viewed by the City as a City asset; the City has no agreement to maintain those railroad crossing warnings; and therefore the City has not assumed responsibility for that equipment either.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

Executed on this 19 day of September 2024.


Otis Brown



EXHIBIT A-8

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Jennifer Holloway on behalf of Ramon Viada

Bar No. 20559350

jholloway@viadastrayer.com

Envelope ID: 92246152

Filing Code Description: Motion (No Fee)

Filing Description: Defendant City Of Stafford's Plea To The Jurisdiction

Status as of 9/20/2024 8:33 AM CST

Associated Case Party: The City of Stafford

Name	BarNumber	Email	TimestampSubmitted	Status
Jennifer Holloway		jholloway@viadastrayer.com	9/19/2024 5:50:06 PM	SENT
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EXHIBIT A-9

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Beverley McGrew Walker
District Clerk
Fort Bend County, Texas
Alvi Aimen

CAUSE NO. 24-DCV-318392

CHIOMA DURU, MD and CHIZARA,	§	IN THE DISTRICT COURT OF
NWAKANMA, INDIVIDUALLY AND	§	
ON BEHALF OF THEIR UNBORN	§	
BABY C.N. II	§	
	§	
v.	§	FORT BEND COUNTY, TEXAS
	§	
UNION PACIFIC RAILROAD	§	
COMPANY and CITY OF STAFFORD	§	434TH JUDICIAL DISTRICT

ORDER

Before the Court is Defendant City of Stafford's Plea to the Jurisdiction. The Court, having considered the plea and any timely filed responses or replies, finds that the plea is meritorious and is granted.

Therefore, it is ordered, that each and every one of Plaintiffs' claims against the City of Stafford are DISMISSED WITH PREJUDICE for want of subject-matter jurisdiction.

Signed _____.

JUDGE PRESIDING
434th District Court

09/20/2024 AA

**ROUTED TO COURT
RT'D TO D. CLERK**

EXHIBIT A-9

EXHIBIT A-9

Automated Certificate of eService

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Jennifer Holloway on behalf of Ramon Viada

Bar No. 20559350

jholloway@viadastrayer.com

Envelope ID: 92246152

Filing Code Description: Motion (No Fee)

Filing Description: Defendant City Of Stafford's Plea To The Jurisdiction

Status as of 9/20/2024 8:33 AM CST

Associated Case Party: The City of Stafford

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Jennifer Holloway		jholloway@viadastrayer.com	9/19/2024 5:50:06 PM	SENT

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EXHIBIT A-10

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9/19/2024 5:50 PM
Beverley McGrew Walker
District Clerk
Fort Bend County, Texas
Alvi Aimen

CAUSE NO. 24-DCV-318392

CHIOMA DURU, MD and CHIZARA, § IN THE DISTRICT COURT OF
NWAKANMA, INDIVIDUALLY AND §
ON BEHALF OF THEIR UNBORN §
BABY C.N. II §
v. § FORT BEND COUNTY, TEXAS
UNION PACIFIC RAILROAD §
COMPANY and CITY OF STAFFORD § 434TH JUDICIAL DISTRICT

NOTICE OF HEARING

Please take notice that City of Stafford's Plea to the Jurisdiction has been set for hearing on **Thursday, October 3, 2024**, at **9:00 a.m.** The hearing will be conducted in the courtroom of the 434th District Court of Fort Bend County, Texas.

Respectfully submitted,

VIADA & STRAYER

By: /s/ **Ramón G. Viada III**
Ramón G. Viada III
State Bar No. 20559350
17 Swallow Tail Court
The Woodlands, Texas 77381
(281) 419-6338
rayviada@viadastrayer.com

ATTORNEYS FOR DEFENDANT
CITY OF STAFFORD, TEXAS

CERTIFICATE OF SERVICE

I certify that all counsel of record have been served a true and correct copy of the foregoing document in accordance with Tex. R. Civ. Proc. 21a by electronic submission for filing and service through the Texas Online EFiled for Courts on September 19, 2024.

/s/ **Ramón G. Viada III**
Ramón G. Viada III

09/20/2024 AA

ROUTED TO COURT
RT'D TO D. CLERK

EXHIBIT A-10

EXHIBIT A-10

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Jennifer Holloway on behalf of Ramon Viada
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jholloway@viadastrayer.com
Envelope ID: 92246152
Filing Code Description: Motion (No Fee)
Filing Description: Defendant City Of Stafford's Plea To The Jurisdiction
Status as of 9/20/2024 8:33 AM CST

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Associated Case Party: The City of Stafford

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Ramon G.Viada		rayviada@viadastrayer.com	9/19/2024 5:50:06 PM	SENT
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EXHIBIT A-11

Filed
9/24/2024 11:41 AM
Beverley McGrew Walker
District Clerk
Fort Bend County, Texas
Carlene Blum

CAUSE NO: 24-DCV-318392

CHIOMA DURU, MD and CHIZARA	§	IN THE DISTRICT COURT
NWAKANMA, INDIVIDUALLY AND ON	§	
BEHALF OF THEIR UNBORN BABY C.N. II	§	
<i>Plaintiff,</i>	§	
	§	OF FORT BEND COUNTY, TEXAS
V.	§	
	§	
UNION PACIFIC RAILROAD COMPANY and	§	
THE CITY OF STAFFORD	§	434 th JUDICIAL DISTRICT
<i>Defendants.</i>		

**PLAINTIFFS' MOTION FOR NONSUIT WITHOUT PREJUDICE AS TO
THE CITY OF STAFFORD ONLY**

COME NOW, **CHIOMA DURU, MD and CHIZARA NWAKANMA, INDIVIDUALLY AND ON BEHALF OF THEIR UNBORN BABY C.N. II, Plaintiffs herein** and file this Notice of Nonsuit without Prejudice as to Defendant **THE CITY OF STAFFORD, only**, and in support thereof would show unto the Court the following:

I.

Plaintiffs no longer wish to pursue any cause of action they may have against Defendant, **THE CITY OF STAFFORD only** and hereby takes a non-suit and dismissal of all causes of action against this Defendant only, pursuant to TEXAS RULE OF CIVIL PROCEDURE 162. This Defendant has a pending Plea to the Jurisdiction was filed on September 19, 2002⁴⁷ and is scheduled to be heard before this Court on October 3, 2024, at 9:00 am. Plaintiffs wish to Nonsuit Defendant **THE CITY OF STAFFORD, only**, which will automatically pass the scheduled hearing.

All causes of action against Defendant, UNION PACIFIC RAILROAD COMPANY remain pending before this Court.

EXHIBIT A-11

Respectfully submitted,

MIKE KERENSKY, PLLC

By: /s/ Michael W. Kerensky.

Michael W. Kerensky
Texas Bar No. 11331500
The Lyric Centre
440 Louisiana, Suite 2300
Houston, Texas 77002
713-228-5100 office
713-228-6138 fax
mike@kerenskylawfirm.com

**ATTORNEY FOR IDETTE GIPSON and
ASHLAN LANE GIPSON**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been filed electronically and sent to all parties by operation of the Court's electronic filing system on September 24, 2024.

/s/ Michael W. Kerensky.

Michael W. Kerensky

EXHIBIT A-11

Automated Certificate of eService

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Erica Fehr on behalf of Michael Kerensky

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Filing Code Description: Motion (No Fee)

Filing Description: Plaintiffs' Motion for Nonsuit Without Prejudice as to the City of Stafford Only

Status as of 9/24/2024 1:39 PM CST

Associated Case Party: The City of Stafford

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EXHIBIT A-12

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9/24/2024 11:41 AM
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Carlene Blum

CAUSE NO: 24-DCV-318392

CHIOMA DURU, MD and CHIZARA	§	IN THE DISTRICT COURT
NWAKANMA, INDIVIDUALLY AND ON	§	
BEHALF OF THEIR UNBORN BABY C.N. II	§	
<i>Plaintiff,</i>	§	
	§	OF FORT BEND COUNTY, TEXAS
V.	§	
	§	
UNION PACIFIC RAILROAD COMPANY and	§	
THE CITY OF STAFFORD	§	434 th JUDICIAL DISTRICT
<i>Defendants.</i>		

ORDER GRANTING PLAINTIFFS'
MOTION FOR NONSUIT WITHOUT PREJUDICE AS TO
THE CITY OF STAFFORD ONLY

ON THIS DATE, came on for consideration Plaintiffs' Motion for Nonsuit without Prejudice as to Defendant **THE CITY OF STAFFORD only**, and the Court, after considering the Motion and all pleadings on file, is of the opinion that said Motion is in all things good and should be GRANTED. It is therefore,

ORDERED, ADJUDGED and DECREED that Plaintiffs' Motion for Nonsuit without Prejudice as to Defendant **THE CITY OF STAFFORD only**, is hereby GRANTED. It is further,

It is further ORDERED, ADJUDGED and Decreed that all causes of action against Defendant, **UNION PACIFIC RAILROAD COMPANY** remains pending before this Court, and that all costs are to be borne by the party incurring same.

SIGNED this 25th day of September, 2024.

Angie Brane

JUDGE PRESIDING

[Signature]

9/25/2024

ROUTED TO COURT 9/24/2024 CB
RT'D TO D. CLERK 10/11/2024 ER

EXHIBIT A-12

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

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Envelope ID: 92380419
Filing Code Description: Motion (No Fee)
Filing Description: Plaintiffs' Motion for Nonsuit Without Prejudice as to the City of Stafford Only
Status as of 9/24/2024 1:39 PM CST

Associated Case Party: The City of Stafford

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